



Serial No. 10/683,952  
Docket No. 010072.02

## COMBINED DECLARATION AND POWER OF ATTORNEY FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, WE HEREBY DECLARE THAT:

Our residences, post office addresses, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: **THERAPEUTIC FORMULATIONS**, the specification of which is attached hereto unless the following box is checked:

was filed on 10/09/2003, as United States Application Serial No. **10/683,952**.

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

| Application No. | Country | Date of Filing<br>(day/month/year) | Priority Claimed?  |
|-----------------|---------|------------------------------------|--|
| *               |         |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Serial No. | Filing Date |
|------------------------|-------------|
| 60/417,536             | 10/9/2002   |
| 60/426,585             | 11/14/2002  |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

| Application Serial No. | Filing Date | Status  |
|------------------------|-------------|---|
| *                      |             | <input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned |

We hereby appoint the following attorneys and agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Yuan Chao (Reg No. 32,118)  
Gary Ashley (Reg No. 51,418)  
David P. Lentini (Reg. No. 33,944)  
Randolph Ted Apple (Reg. No. 36,429)

Eric Witt (Reg. No. 44,408)  
Brenda Wallach ( Reg. No. 45,193)  
Kate Murashige (Reg. No. 29,959)

Please direct all communications to:

Intellectual Property Department  
Kosan Biosciences, Inc.  
3832 Bay Center Place  
Hayward, CA 94545

Please direct all telephone calls to Yuan Chao at (510) 731-5156 or Gary Ashley at (510) 731-5215.

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

February 27, 2004

Michael Sherrill

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Date Name: Michael J. SHERRILL  
Residence: Danville, CA  
Citizenship: United States  
Post Office Address: 256 Stetson Drive, Danville, CA 94506

February 27, 2004

Robert G. Johnson, Jr.

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Date Name: Robert G. JOHNSON, JR.  
Residence: Lafayette, CA  
Citizenship: United States  
Post Office Address: 3656 Happy Valley Road, Lafayette, CA 94549

## **ASSIGNMENT JOINT**

THIS ASSIGNMENT, by Michael J. Sherrill and Robert G. Johnson, Jr. (hereinafter referred to as the assignors), residing at 256 Stetson Drive, Danville, CA 94506 and 3656 Happy Valley Road, Lafayette, CA 94549, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements in **Therapeutic Formulations**, set forth in an application for Letters Patent of the United States, bearing Serial No. 10/683,952 and filed on October 9, 2003; and

WHEREAS, Kosan Biosciences, Inc., a corporation duly organized under and pursuant to the laws of Delaware and having its principal place of business at 3832 Bay Center Place, Hayward, CA 94545 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents do sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the sole and lawful owners of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns.

AND said assignors hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

February 27, 2004

Date

Michael Sherrill

Michael J. Sherrill

February 27, 2004

Date

Robert G. Johnson, Jr.

Robert G. Johnson, Jr.